

# State of South Dakota

SEVENTY-SEVENTH SESSION  
LEGISLATIVE ASSEMBLY, 2002

400H0244

## SENATE BILL NO. 21

Introduced by: The Committee on Judiciary at the request of the Attorney General

1 FOR AN ACT ENTITLED, An Act to prohibit tax stamping or payment of taxes on tobacco  
2 products of certain nonparticipating manufacturers and to provide for the creation of a  
3 directory for compliant nonparticipating manufacturers.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as  
6 follows:

7 No distributor or wholesaler may, directly or indirectly, affix a South Dakota cigarette tax  
8 stamp or imprint to a package of cigarettes, or pay South Dakota cigarette tax on roll-your-own  
9 tobacco product, manufactured by a tobacco product manufacturer unless:

10 (1) The manufacturer is a participating manufacturer as provided in subdivision 10-50B-  
11 7(1); or

12 (2) The manufacturer is a nonparticipating manufacturer in compliance with subdivision  
13 10-50B-7(2).

14 Section 2. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as  
15 follows:



1       The secretary of revenue shall annually, no later than May fifteenth, transmit to all licensed  
2       distributors and wholesalers, and post on the Department of Revenue's website, a directory of  
3       nonparticipating tobacco product manufacturers determined by the secretary to be in compliance  
4       with subdivision 10-50B-7(2). The secretary of revenue shall amend the directory on the  
5       Department of Revenue's website, as necessary, to include any nonparticipating tobacco product  
6       manufacturer determined to be in compliance with subdivision 10-50B-7(2) after May fifteenth.

7       Section 3. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as  
8       follows:

9       Any nonparticipating tobacco product manufacturer excluded from the directory may request  
10      a contested case hearing before the secretary. A request for hearing shall be made within sixty  
11      days of the issuance of the annual directory or the date the manufacturer determined it was in full  
12      compliance with state law, and shall contain the evidence supporting the manufacturer's  
13      compliance with subdivision 10-50B-7(2). At the hearing, the secretary shall determine whether  
14      the nonparticipating tobacco product manufacturer is in compliance with subdivision 10-50B-  
15      7(2), and whether the manufacturer should be listed in the directory.

16      Section 4. That chapter 10-50 be amended by adding thereto a NEW SECTION to read as  
17      follows:

18      Any stamped cigarettes or roll-your-own tobacco on which taxes have been paid in violation  
19      of this Act are contraband goods and may be legally seized, without a warrant, by the secretary  
20      of revenue, department agents or employees, or by any law enforcement officer of this state if  
21      directed by the secretary to do so. Any tobacco products seized and forfeited under this section  
22      shall be destroyed. The Department of Revenue may allow a credit for tax paid on contraband  
23      cigarettes and roll-your-own product returned to the manufacturer or distributor from which they  
24      were purchased.